There is a resurgence of interest in federalism at the beginning of the twenty-first century, most notably in the institutional reconfiguration of Europe (Filippov, Ordeshook, and Shevtsova 2004) which is at the “epicenter” of a worldwide “federalizing tendency” (Russell 2005, 13). According to Imbeau (2004, 13), “we can view federal systems as historical experiments at sharing policy responsibilities and look at them as working models of a new global order.” Federalism is a defining feature of many national systems of government and is spreading to others. During the last half-century, federalism has proved its resilience and flexibility in the older established federations of the United States, Switzerland, Canada, and Australia. Federal constitutions were successfully reestablished in Germany and Austria, countries with long federal traditions, after the Second World War. While there were some notable failures of postwar federations that were artificially cobbled together by military victors or retreating colonial powers (Franck 1968), federalism has taken root in a number of Asian countries, most notably India, but also Malaysia, as well as Latin America with Argentina, Brazil, Venezuela, and Mexico becoming, to some extent, federal. Within Europe, some traditionally centralist countries have become more federal, most notably Spain with autonomous regional communities, and Great Britain with devolution to Scotland, Wales, and Northern Ireland. In addition, Belgium has become effectively a federal country as a way of accommodating its distinct French- and Dutch-speaking peoples. If federalism has
not fared well in Africa, it remains an essential part of the Nigerian constitution, while South Africa has adopted significant federal features in its new constitution.

The discussion of the chapter moves from consideration of the changing global environment that favors federalism to the more familiar structures of country-specific federal systems. Subsequent sections examine the robustness and flexibility of federalism that result from its particular blend of institutions and depend upon a highly developed civic and constitutional culture. But first we examine the changing international environment and historical setting of federalism and its fit with the changing global order.

1 Federalism and a Changing World

Federalism's resurgence is in part due to its compatibility with the new world order and the jettisoning of national sovereignty orthodoxy. The world environment has changed from the twentieth century's primary focus on national sovereignty and centralized government to the twenty-first century's concern with cosmopolitanism and multiple sphere government.

One notable change is the decline of Keynesianism in favor of neoliberal economics, and the collapse of socialism and centralist planning in favor of market solutions in most domestic economies. Federalism had been considered an obstacle to managing a capitalist economy by many twentieth-century commentators. Laski (1939) pronounced "the obsolescence of federalism," and influenced a generation of postwar scholars like Gordon Greenwood (1976) from Australia who applied Laski's thesis to the supposed needs of postwar reconstruction and managing a modern economy. Such claims were always exaggerated as the established federations of the United States, Canada, and Australia flourished, and successful federal systems were reestablished in Germany and Austria. In any case, the structural forces of capitalism have changed with combined economic and technological developments, especially in communications and commerce, producing a version of globalization that has reduced the relative significance of nation states. Partly in reaction, and partly sustained by the same technological advances, local and regional communities and groupings of people are demanding greater participation, a phenomenon that Tom Courchene (1995) has called "glocalization."

Federalism is broadly compatible with the post-sovereignty world of the twenty-first century which is "characterized by shifting allegiances, new forms of identity and overlapping tiers of jurisdiction" (Camilleri and Falk 1992, 256). As Andrew Linklater pointed out, "the subnational revolt, the internationalization of decision-making and emergent transnational loyalties in Western Europe reveal
that the processes which created and sustained sovereign states in this region are being reversed" (1998, 113). Hedley Bull (1977) had earlier argued that the world was moving towards a form of "neo-medievalism" of overlapping structures and cross-cutting loyalties. "Complex interdependency" (Keohane and Nye 1977) characterizes much of the modern world of international relations. In contrast, the twentieth-century concern was more with national sovereignty, even though for many dependent and unstable countries formal sovereignty was often little more than "organized hypocrisy" (Krasner 1999).

For many federal countries, including new world ones like Australia and Canada as well as old European ones like Germany, the post-sovereignty world of the future is in some ways a return to the past. The sweep of political history includes long periods of sprawling empire when nations became states with varying degrees of autonomy. The British Empire is a case in point, with Australia, along with Canada, South Africa, India, and many other countries, becoming nations without sovereignty through the nineteenth and twentieth centuries, (Galligan, Roberts, and Trifiletti 2001). Europe and Asia have long histories of complex state arrangements not characterized by sovereign nation states. Great Britain itself, once the paradigm of a unitary state with a sovereign parliament, has granted devolution to Scotland and Wales and joined the European Union.

If federalism was at risk in the mid-twentieth century world of nation building and sovereign nation states, it should thrive in the twenty-first century of complex interdependency, multiple citizenship allegiances, interdependent and overlapping jurisdictions, and multiple centers of law and policy-making. As we shall see in the next sections, federalism is a system of divided sovereignty and multiple governments with partly separate and partly shared jurisdiction. Adding another international sphere of governance where some norms and standards are formulated and collective decisions are made that impinge on a nation's domestic affairs complicates things (Lazar, Telford, and Watts 2003), but in ways that are broadly congenial with federalism. The "paradigm shift" that Ron Watts identifies, is "from a world of sovereign nation-states to a world of diminished state sovereignty and increased interstate linkages of a constitutionally federal character" (Watts 1999, ix).

2 Federalism’s Interpreters and National Settings

Federalism is characterized by two spheres of government, national and state, operating in the one political entity according to a defined arrangement for sharing
powers so that neither is sovereign over the other. According to William Riker’s definition, “the activities of government are divided between regional governments and a central government in such a way that each kind of government has some activities on which it makes final decisions” (Riker 1975, 101). For Daniel Elazar, “the constituting elements in a federal arrangement share in the processes of common policy making and administration by right, while the activities of the common government are conducted in such a way as to maintain their respective integrities.” Elazar summed this up in the neat epigram “self-rule plus shared rule” (Elazar 1987, 12; italics in original)—self-rule in regional communities and shared rule at the national level. While this has become a cliche about federalism and is consistent with Elazar’s approach in American Federalism: A View from the States (1984), it is somewhat misleading as self-rule and shared rule are features of both spheres of government in a balanced federal system.

The notion of federalism as an association of associations is an old, and partly misleading one. The old federal form was a league or confederation of member states that agreed to share in certain matters of collective decision-making, often for strategic or trade purposes. An early theoretical exposition is found in Johannes Althusius’ notion of an association of associations (Carney 1965). This was the institutional form of the earlier American Articles of Confederation that provided a weak form of national government, unsuited to raising the taxes and armies necessary to fight the War of Independence. In 1789, the American constitutional founders restructured federalism, strengthening central government through making its key offices independent of the member states and directly responsible to the people (Federalist Papers, Numbers 9 and 10; Diamond 1961). In his observations in Democracy in America, Alexis de Tocqueville affirmed that this American innovation in federal design “rests in truth upon a wholly novel theory, which may be considered as a great discovery in modern political science”—namely, making citizens rather than states or societies, members of the national union (Tocqueville [1835] 1945, 162).

This grounding of federalism on dual citizenship, that is membership of the new national union and continuing membership of the older and smaller state unions, was a major innovation not only in institutional design but also in popular government. Indeed the two are inextricably linked with the two spheres of government being independently based in popular sovereignty (Beer 1993). This helps us answer the question that is sometimes posed as to whether there can be genuine federalism without democracy. The answer is negative if we are talking about the modern American or republican form of federalism. Moreover, it is hard to envisage alternative non-democratic bases to federalism that would be sufficient to anchor both spheres of government. If this is the case, successful federalism requires robust democracy in which citizens share membership of two political communities and participate politically in both. The corollary requirement of such dual citizenship is real but moderate attachment to both spheres of government.
Federalism presupposes a sophisticated citizenry with multiple allegiances and a constitutional culture of limited government.

This is very different from the earlier sociological view that federalism was a consequence of ethnically diverse societies: as William Livingston put it (1956, 4), "Federalism was a function not of constitutions but of societies." William Riker's earlier reflections on federalism were based on a similar sociological rationale: he questioned why Australia bothered with federalism when it had no ethnically based differences (1964), and argued federalism was trivial without such differences (1970). Riker, however, was to change his mind about federalism, moving from sociological to institutional explanations, and from being a New Dealer critic to an advocate concerned with big government (1975; 1987, xii–xiii). Riker concluded his federal odyssey on a traditional note that vindicated Madison and the American founders: "Taking together all federations in the world at all times, I believe that federalism has been a significant force for limited government and hence for personal freedom" (1993, 513). This view of federalism as reinforcing a liberal pluralist system of government in America was shared by Theodore Lowi (1984), and also by Geoffrey Sawn based upon his reflections on Australian and comparative federalism (1976).

Federalism can provide an institutional basis for ethnically distinct peoples, but paradoxically that can also facilitate secession, as Donald Horowitz has pointed out: "federalism can either exacerbate or mitigate ethnic conflict" (Horowitz 1985, 603). In a recent study of federalism and secession in North America, Lawrence Anderson has a similar warning: "Federalism may actually whet a given region's appetite for secession by creating opportunities for conflict and providing the region with the opportunity and the institutions needed to mobilize support for secession" (Anderson 2004, 96). Secession of the Southern states of the United States and Canada's long-standing national crisis with Quebec separatism are illustrative cases. Studies of failed federations and attempts to deal with regions of ethnic conflict provide further evidence of this dangerous aspect of federalism (Dorff 1994). Federalism is in trouble where there is too little national sense among the people, and too sharp differences among regionally based ethnic, religious, and linguistic groups. The ongoing crisis of Canadian federalism is a consequence of both: Canadians never properly constituted themselves as a sovereign people, according to Peter Russell (2004), and there has been an ongoing struggle to head off Quebec separatism that periodically threatens the nation (Smiley 1980). Federalism failed in Yugoslavia because, as Mitja Zagar (2005, 123) explains, "The existing constitutional and political system failed to provide for the necessary cohesion of the multiethnic Yugoslav community."

Nevertheless, providing an institutional outlet for subnational distinct peoples as in Switzerland, Canada, Belgium, and India is one of a number of purposes that federalism serves. More generally, federalism facilitates government in geographically large countries such as the United States and Australia as well as Canada and
Federalism in its modern form was designed by the American founders to provide a system of decentralized and limited government for liberal and pluralist societies. This has been its main purpose in the United States, Germany, and Australia, and also a major purpose in Switzerland and Canada (Sharman 1990). Federalism thrives in polities imbued with civil virtues of moderation, toleration, and support for limited government. Rather than providing a support structure for ethnically distinct groups concentrated in subnational states, federalism works best in pluralist countries with multiple interests and geographically scrambled differences.

3 Federal Countries

Federalism is a popular form of government. Watts lists twenty-four countries—twenty-three after the collapse of Yugoslavia—with about 40 percent of the world’s population, although the bulk of these live in India (Watts 1999, 8–10). Watts’ list includes quasi-federations or hybrids that are “predominantly federations in their constitutions and operation but which have some overriding federal government powers more typical of a unitary system.” Examples are India, Pakistan, and Malaysia because of their overriding central emergency powers, and South Africa that retains some of its pre-1996 unitary features. The new federations since Elazar’s earlier 1987 list (1987, 43–4) are Belgium, Spain, and South Africa, even though the latter two countries do not use the term federal in their constitutions, the two tiny island federations of St. Kitts and Nevis and Micronesia, and Ethiopia.

Federal countries are quite heterogeneous in having different political cultures and being at such different stages of development that meaningful comparison is hardly possible. Hence scholars typically group federal countries in manageable clusters of more similar countries: for example, “less developed countries” (Bahl and Linn 1994), Latin American countries, which now include Spain (Montero 2001), or more usually well-established Anglo and European federations, Australia, Austria, Canada, Germany, Switzerland, and the United States (Obinger, Leibfried, and Castles 2005). Because of its scale and history, India is unique and tends to be studied individually (Khan 1992; Verney 2003; Rao 2003).

As we might expect, federal counties score highest on Arend Lijphart’s “Index of federalism” that is based on quantifying variables of federal–unitary dimensions on a scale of 1 to 5 (Lijphart 1999, appendix A, 312–13). Whereas unitary countries like Great Britain, New Zealand, and Greece score 1, the five well-established federations, Australia, Canada, Germany, Switzerland, and the United States, all score 5.
The other federal countries to score highly are Austria and India with 4.5, Venezuela with 4, Belgium with 3.2, and Spain with 3. Because they are sufficiently similar and have high federal characteristics, the developed European and Anglo federations are usually chosen for comparative study of federal institutions even though this narrows the scope of findings. Such selectivity underpins both the strength and limitations of most federalism studies.

4 Institutions of Federalism

Federalism has been institutionally embodied in a variety of ways in different federal countries. Nevertheless there is a set of institutions that are sufficiently common to be identified as typical by writers on federalism. These are first, a written constitution that is difficult to amend; second a bicameral legislature with a strong federal chamber to represent the constituent regions; third, a supreme or constitutional court to protect the constitution though the power of judicial review; and fourth, intergovernmental institutions and processes to facilitate collaboration in areas of shared or overlapping jurisdiction (Watts 1999, 7; Lijphart 1999, 4, 187 lists only the former three). It should be noted that none of these features is exclusively federal, and all can be found in varying forms in non-federal systems. That is perhaps most obvious for a written constitution, but also applies to some extent to a system of intergovernmental relations where unitary states have decentralized arrangements of local government.

The fact that federalism has no uniquely defining institutional arrangements has led some like Iva Duchacek (1987) and Rufus Davis (1978) to conclude that federalism lacks a coherent theory. A contrary view by Filippov, Ordeshook, and Shevtsova offers “a theory of federal design that is universal and complete,” based upon the political party system that channels elites’ behavior to support federalism (2004, 17, 39–40). Both views are too extreme. The former skeptical view is premised upon too tight presuppositions of distinctiveness in core institutions that federalism lacks. The latter claim that political party can provide a universal and complete theory of federal design is overstated because parties in federal systems are partly shaped by them and their supporting political culture. Federalism remains a complex and messy system that takes common political institutions and uses them in federal ways. Moreover, in any particular federal country there exists a variety of institutions and practices, some federal and others non-federal, that interact in complex ways. In addition, political institutions worked by human agents have a reflexive capacity and can be worked in different ways: non-federal
ones for federal ends or federal ones for unitary ends. In reviewing the set of four key "federal institutions" identified above, we need to keep these considerations in mind.

5 Written Constitution

While having a written constitution that is difficult to amend is not exclusive to federal systems—Japan has one—it does serve a crucial function in underpinning federalism by anchoring the two levels of government, national and state, and defining the division of powers between them. The essence of federalism is two spheres of government neither of which is sovereign but each of which has defined and limited powers. The written constitution is the institutional means of achieving this. The precise form varies among federal constitutions in ways that reflect their historical origins and political cultures.

The Anglo constitutions were formed from existing smaller states and provinces that had been quasi-independent colonies within the British Empire. Hence their federal constitutions serve the dual functions of creating the national institutions of government with specified powers while guaranteeing the continuing existence of subnational states or provinces with their powers. Since the latter already existed with their own establishing acts or constitutions, they receive relatively scant attention in the US and Australian constitutions that affirm the states' continuing existence and residual powers in so far as these are not modified by the constitution. Although more centralist in its original design, the Canadian constitution spells out the main powers of the provinces. Germany's Basic Law adopted in 1949 gives a more comprehensive account of the interdependent roles of federal and Länder governments (Jeffery 1999). The Swiss constitution is the most decentralized in securing the powers of the cantons in order to protect their linguistic diversity.

A key function of the written constitution is specifying the division of powers or competencies between the national and state governments. The way this is done is important in defining the character of the federal system, although judicial review and political practice may subsequently vary the way in which a federal system develops. Legal scholarship has focused on the formal division of powers, and legal scholars like K. C. Wheare (1963), an Australian professor at Oxford, dominated the Anglo study of federalism in the post-Second World War decades. A prominent difference in the basic division of powers is that between the US model of enumerating Congress' heads of power and guaranteeing the residual to the states,
that Australia followed, and the Canadian model of enumerating both sets of powers. In Canada's case, however, the difference has been blurred through judicial review and federal politics with the Privy Council expanding provincial powers in sanctioning that country's evolution from a centralized to a decentralized federation. In other words, the constitutional division of powers does not necessarily tell us how a federal system has developed or operates today.

This is acknowledged in recent European scholarship that takes account of both the distribution of legislative power and practical implementation in distinguishing between interstate and intrastate federalism. According to Dietmar Braun (2004, 47), in the interstate model "jurisdictional authority is separated between territorial actors and competition and bipolarity predominate," whereas in intrastate federalism "most of the decisions are taken at the federal level where subgovernments and the federal government have their say" and "implementation is almost completely in the hands of subgovernments." Canada epitomizes interstate federalism with Canadian provinces having no direct say in federal legislation or implementation, but being relatively autonomous in their own legislative powers. Germany has intrastate federalism with the Länder having a direct say in national legislation, through representation in the Bundesrat, and also the main responsibility for its implementation.

6 Difficult to Amend

The leading federal countries all have constitutions that are hard to amend and score highly on Lijphart's (1999, 220-1) most difficult category, that requiring "supermajorities" greater than two-thirds approval of both houses of the national legislature. On a scale of 1 to 4, unitary countries such as the United Kingdom and Sweden score 1, whereas federal countries such as Australia, Canada, Germany, Switzerland, and the United States score 4. The mean index of constitutional rigidity for all countries is 2.6 and the median 3. According to Lijphart, Germany's score of 3.5 on the index is understated because its amendment procedure requires a two-thirds majority in both houses of the national legislature and these are significantly different in composition. The only unitary country to score highly is Japan, which requires a referendum in addition to two-thirds majorities in both houses of its legislature.

Among the five federal countries with constitutions that are difficult to amend, the procedures vary significantly. Australia followed Switzerland in having popular referendum procedures that are also federally weighted; majorities of voters overall,
and majorities in a majority of the states and cantons. Yet the two countries are quite different in their patterns of usage and success. Switzerland uses referendums widely for policy as well as constitutional purposes, whereas Australia has a slim record of passing only eight amendments from forty-four proposals (Galligan 2001). The United States has ratification by three-quarters of the states in addition to two-thirds majorities in both houses of Congress. Canada has a weighted federal formula that takes account of both numbers of provinces and population—two-thirds of the provincial legislatures from provinces containing at least half the total population—with unanimity required for sections concerning basic language rights. Germany has the two-thirds rule for majorities in both houses, with the Bundesrat representing the Länder.

The purpose of having difficult-to-amend constitutions is to protect the higher law character of the constitution that controls the other institutions of government. As Donald Lutz puts it, constitutional amendment should be “neither too easy nor too difficult” and successful constitutions should have “a moderate amendment rate” (Lutz 1994, 357). The amendment rate is affected by a number of factors, most notably the length of the constitution and difficulty of the amendment process. Longer constitutions are more likely to require alteration of their detail; and easy amendment processes are likely to attract change proposals. The rate of amendment also depends on whether there are alternative avenues for change, such as judicial review. Australia and the United States with short constitutions, difficult amendment procedures, and active judicial review have exceptionally low rates of change and low counts on Lutz’s amendment rate index (calculated by dividing the number of amendments by the total years of operation of the constitution): 0.09 and 0.13, respectively. Switzerland is higher at 0.78 and Germany with 2.91 is above the 2.54 average for thirty-two countries (Lutz 1994, 369). Canada is omitted because it continued to rely upon Britain’s Westminster parliament until Trudeau’s patriation of the constitution in the 1980s, replete with complex amendment procedures and a Charter of Rights. Since then Canada has been engaged in successive rounds of discussion for “mega-constitutional” change that have been overly ambitious and fruitless (Russell 2004).

7 Judicial Review

While federal constitutions specify in broad terms the division of powers between national and state governments, judges and courts interpret and apply those provisions in specific cases. Some federations have specialized constitutional courts
for making such decisions, while others rely upon general courts (Watts 1999, 100). The United States, Australia, Canada, India, Malaysia, and Austria have general multipurpose courts, while Germany, Belgium, and Spain have specialized constitutional courts. Switzerland has a more limited Federal Tribunal to decide the validity of cantonal laws, but uses popular referendums for federal laws. The jurisprudence of courts exercising judicial review is affected by their character and staffing, with generalist courts often taking a more literalist approach. Whereas constitutional experts are appointed to constitutional courts, specialists in various branches of the law or legal generalists are required for general purpose courts where constitutional adjudication is only part of the workload. The Australian High Court is a case in point where, typically, leading barristers and judges from lower courts with only incidental constitutional experience are appointed by the Commonwealth government after consultation with the states. In contrast, the German constitutional court has specialists in constitutional law appointed equally by the Bundestag and the Länder. Irrespective of the character of the court, federations with linguistic diversity such as Canada and Switzerland have arrangements for ensuring proportional representation of judges from those linguistic groups.

Within federations, constitutional adjudication and interpretation are important because they affect government powers as well as individual rights and group interests. In deciding particular cases involving constitutional matters, courts also determine the way constitutions are to be interpreted. While courts can make bold and innovative constitutional decisions, they rely upon cases coming to them. That requires the mobilization of support groups with the dedication and financial backing to bring test cases (Epp 1998). Courts also have to ensure their decisions are accepted by the other branches of government, so cannot get too far out of step with the mainstream political consensus. Through the appointment process, governments can shape the direction of courts over the longer term, and can often work around their decisions in the shorter term.

The significance of courts as arbiters in federal systems varies from time to time and among federations. In recent decades the expansive interpretation of powers in federations such as the United States, Canada, and Australia has reduced the role of their supreme courts as arbiters of their federal systems. As a consequence, the balance of powers between national and state or provincial governments is determined mainly by patterns of national politics and the push and pull of intergovernmental relations. National governments have become more prominent since the Second World War, although in Canada's case this has been more than offset by province building by Quebec and western Canada. Moreover, constitutional adjudication in Canada and the United States has shifted mainly to rights protection in interpreting charters and bills of rights. Lacking a constitutional bill of rights, the Australian High Court flirted with implied constitutional rights during the 1990s but is severely constrained in extending its rights jurisdiction without a bill of rights.
Legislative bicameralism is one of the institutional bastions of federalism and a standard feature of all significant federations (Watts 1999, 92). Legislative bicameralism is not peculiar to federal systems, however, and traditionally effected sectoral and class representation. Within federal systems, bicameralism has become an important institution for representing subnational governments or groupings of peoples in the national legislature in a variety of ways.

Historically, bicameralism was a key part of the Connecticut compromise between large and small states that underpinned the United States constitution. A bicameral Congress with the Senate based on equal state representation was necessary to secure small states’ support for the constitution. Through representing different interests, based on state rather than local constituencies, the Senate would also be an important check on congressional power. Originally appointed by the states, the US Senate increased its legitimacy and standing when direct election by the people of the states was introduced in 1913.

Australia followed the American model with its Senate having virtually co-equal powers with the House of Representatives. While it cannot propose or amend money bills, the Australian Senate has the larger power of passing or refusing to pass them. The first restriction is common to the US constitution, and the second is to respect the monetary prerogative of the responsible government executive based in the House of Representatives. The number of senators per state is equal, originally set at six but now twelve per state plus two for each of the two territories, with the total number fixed to half the size of the House of Representatives that has been increased from time to time. The earlier 1891 draft of the Australian constitution copied the American model of having the senate elected by state legislatures, but this was changed by the 1897–98 convention to election by the people of the states. Party discipline dominates the Australian Senate, much more so than the American, but the adoption of proportional representation in 1948 has opened up the chamber to minor parties and independents that have usually held the balance of power.

Germany’s bicameral arrangement has a more directly federal purpose, with the second chamber or Bundesrat comprised of delegates appointed by Länder governments and voting on their instructions. The Länder quota of members is proportional to relative population size and varies from three to six. The Bundesrat has veto power over all federal legislation that involves Länder administration, which in practice is over 50 percent. Germany’s bicameral structure its highly integrative and underpins its intrastate brand of federalism. Nevertheless, German bicameralism provides a substantial check on legislative power because of the representation it gives different national and regional, as well as popular and party, interests.
Switzerland has a strong bicameral system in which the second chamber or Council of States has full legislative powers and hence a veto over all legislation. Members of the Council are chosen by direct election of the people of the cantons, with two representatives for each of the twenty larger cantons and one each for the six smaller ones.

Canada is the exception with an ineffectual bicameral system due to the appointment of senators by the national government on political and patronage grounds. This makes the Canadian Senate a tame chamber despite its considerable formal powers of having to pass, and being in theory able to reject, any bills. Ineffectual bicameralism has exacerbated problems in Canadian governance, especially the incorporation of the western provinces in national decision-making.

While western reformers advocate a Triple-E Senate—elected, equal, and effective—on the Australian model, national governments dominated by the most populous central provinces, Ontario and Quebec, have been reluctant to address the issue. Alberta’s attempt to legitimate its senators by selecting candidates through provincial elections has been stymied by the national government’s refusal to appoint those elected to the Senate.

Apart from having different institutional structures, bicameral legislatures work differently depending on how they interact with other parts of the political system, especially political parties. While it is customary to emphasize that federal second chambers represent state or regional interests (Watts 1999, 95), this is only part of the story. Because Australian parties are dominant and well integrated across national and state spheres, senators represent party interests that are national rather than state focused. Nevertheless, senators bring state issues into parliamentary caucuses and provide disproportionate representation for smaller states. United States senators have state constituencies, but party and national concerns are typically more significant. In Germany, party provides a dynamic overlay on Länder representation through Länder governments’ choosing their delegates to the Bundesrat (Sturm 1999). Similarly, in Switzerland party is significant in the regional representation role of Council of States members. Bicameralism increases the complexity of representation through bringing combinations of party and state and regional interests into the national legislature.

9 Intergovernmental Relations

Federalism divides powers and allocates them to separate spheres of government, whereas the making and management of public policy in complex areas often
requires close cooperation. Hence, intergovernmental relations are an important operational part of federal systems, and have proliferated with the expansion of modern government, especially the roles and responsibilities of national governments, and the complexity of major policy areas that attract both spheres of government. As Agranoff points out, "a steady demand for governmental services in health, education, housing, income maintenance, employment and training, and personal social services has forced governments at all levels to become more interdependent" (Agranoff 1986). So much so that in the United States, "public administration and the processes of federalism have merged to a nearly indistinguishable point" (Agranoff and McGuire 2001, 671).

The basic view of federalism underlying most political and policy studies is a concurrent one—both spheres of government sharing in major policy areas. As one of the pioneers of this view put it, federalism was more like a marble than a layered cake (Grodzins 1966), where there was a mixing and blending of federal and state government activities. Elazar formulated this more technically as a non-hierarchical policy-matrix—"polycentric by design," like "a communications network that establishes the linkages that create the whole" (1987, 13). Understanding how such a complex system works entails exploring institutions and processes of intergovernmental relations. Except among mainly constitutional lawyers, this view of federalism has largely replaced the older, classic view of federalism as a coordinate system consisting of two sets of machinery criss-crossing without ever touching or hampering one another's functioning, as Bryce put it in describing American federalism in the nineteenth century (Bryce 1888, vol. 1, 425; also Wheare 1963, 93).

Intergovernmental fiscal relations are a crucial part of federalism and of major interest to scholars of public finance and public choice economics who have attempted to incorporate political mechanisms into their abstract models (see classic papers collected in Grewal, Brennan, and Mathews 1980). One key concern has been with the relationship between federalism and the size of government. Geoffrey Brennan and James Buchanan (1980, 15) argued that decentralization of taxes and expenditures produced smaller government because people and corporations could vote with their feet, and hence governments would have to compete for mobile sources of revenue. This anti-Leviathan thesis is disputed by Jonathan Rodden (2003) who argues that expenditure decentralization is associated with faster growth in overall government spending due to "over fishing" by competing governments in the common fiscal pool. Rodden concludes that only when decentralized expenditure is funded by "own-source" taxes is there slower government growth (2003, 697–8). But this conclusion is not robust, drawing mainly on the experience of the highly decentralized federations, Canada, Switzerland, and the United States, whose tax decentralization and smaller government might well be manifestations of more basic political economy factors. As well, constraining mechanisms imposed by central government on recipient states can restrain their
over fishing. Australia is not included in Rodden's analysis and is a case in point—the Australian states rely on central grants for half their revenue but are also constrained by strong central controls. Thus, whether federalism is associated with smaller or larger government depends on the mix of political and institutional factors of particular countries.

Political scientists and policy analysts have been probing other political and institutional factors that shape processes and outcomes in federal systems. A recent finding is that political-institutional variables—the proximity of elections, the ideology of incumbent governments, and the severity of formal rules limiting deficits—all have a significant effect on budgetary outcomes (Petry 2004, 222). This conclusion is based upon pooled evidence over the past couple of decades for five federations. In this and other studies, Canada and Germany stand out as high deficit countries, while Australia, Switzerland, and the United States are low deficit countries.

Different types of intergovernmental institutions affect federal fiscal policy-making in different ways, as Dietmar Braun (2003, 2004) shows using case studies of Canada, Germany, Belgium, and Switzerland. He identifies Canada and Germany as opposite federal types—"interstate" and "intrastate," respectively—and explains how their institutional differences are played out in fiscal policy processes and outcomes. Canada's national government has extensive scope for fiscal policymaking but weak implementation because provinces are independent with their own legislative powers. The federal government can gain leverage through providing incentives such as contributing to shared cost programs, or it can cut its expenditure and reign in provincial spending through withdrawing from shared programs. Whereas Canada has a competitive tax system, albeit with a shared collection arrangement for income tax, Germany has a cooperation one (Braun 2003, 118). Germany's intrastate federalism incorporates the Länder in national fiscal policy via the Bundesrat that ensures consensus but favors the status quo, and facilitates implementation because everyone has agreed (Braun 2004, 25–8).

One of the main concerns with federalism, that fuelled the opposition of many left-wing parties and commentators in the mid-twentieth century, was its conservative character in favoring the status quo and making reform and innovation difficult. A new study by Obinger, Leibfried, and Castles (2005) shows the complexity of federalism's interaction on social policy in "new world," Australia, Canada, and the United States, and European federations, Austria, Germany, and Switzerland. Using historical case studies, they find that federalism impeded social welfare policy early on, but after consolidation in mature systems other cross-national differences explain variations among countries. The ways in which federalism affects policy innovation and development are multiple and complex, variable over time, and contingent on particular institutional configurations, political actors, and pressure groups, as well as broader historical and cultural contexts. Federalism provides multiple veto-points (Tsebelis 2002) that can check
national government initiatives, but of course these can be either progressive or conservative. In addition, federalism provides multiple entry points for new initiatives, and multiple sites for policy innovation.

10 Conclusion and Future Directions

Federalism has proved to be a flexible and resilient form of government, and federal countries have generally prospered since the mid-twentieth century. In recent decades, the government environment has changed in ways that are congenial to federalism, with increased prominence of market solutions over government direction and planning that lessens the need for centralized and unitary government. The prominence of national independence and sovereignty has decreased with increased globalization of rule making, standard setting, communications, and business. How federal systems are affected by globalization and how particular federal countries respond require careful study of individual countries as well as comparative analysis (Lazar, Telford, and Watts 2003). Timeframes, as well as country specific and comparative studies, remain important, as the study of federalism and the welfare state shows (Obinger, Liebfried, and Castles 2005). Whether federalism produces larger or smaller government, or whether it impedes or facilitates policy change, depend on the complex interaction of multiple political as well as institutional factors at a particular time, and since these factors are dynamic there can be significant change over time. The serious study of federalism is not for the faint-hearted, and simple-minded prognostications such as Laski’s (1939) “obsolescence of federalism” claim are no longer acceptable.

The study of federalism will remain central to understanding the politics of particular federal countries, so detailed country studies will remain necessary. For example, as the recent study by Bakvis and Skogstad (2002) shows, federalism is central to major political and public policy developments and challenges in Canada, quite apart from the ongoing constitutional issues of trying to accommodate Quebec within Canada’s constitutional federalism. Comparative federal studies are also necessary to deepen the understanding of the complex working of federalism, as has been the case particularly in the study of fiscal federalism (Braun 2003).

While some countries might adopt federal systems, as Belgium and Spain and, to a lesser extent, South Africa, have recently done, the more likely future scenario is for a proliferation of quasi-federal, asymmetric, and part-federal arrangements tailored to particular purposes and needs. More typical will be cases like the close political association between Australia and New Zealand that has a blend of
inter-national, federal, and asymmetric elements (Galligan and Mulgan 1999). While federal frameworks are helpful in understanding aspects of non-federal countries, for example China's fiscal decentralization (Davis 1999), it is unlikely that China will evolve into a classic federal system. The challenge for scholars will be to adapt and develop conceptual models for understanding evolving and new forms of decentralization, especially in non-Western countries like China.

Federal systems provide working models of power sharing in complex systems of multiple spheres of government. Whether this is helpful for understanding the expanding sphere of regional and global governance and the interactions between these and domestic governments, as Imbeau claims (2004, 13), is to be established. The suggestion made here is that the two are compatible. A challenge for future scholarship will be to show whether and in what ways the study of federal systems assists in the study of larger regional and global spheres of governance. The blending of international and intergovernmental relations will likely be a rich field that benefits both international and federal studies.

References


Minerva Access is the Institutional Repository of The University of Melbourne

Author/s:
GALLIGAN, B.

Title:
Comparative Federalism

Date:
2006

Persistent Link:
http://hdl.handle.net/11343/30674